


 **Protected Classes**


- ▶ Race
- ▶ Color
- ▶ National Origin
- ▶ Age
- ▶ Sex (including gender identity and sexual orientation)
- ▶ Disability


 **Protected Class - Sex**


Includes:

- ▶ gender identity and
- ▶ sexual orientation




<https://www.fns.usda.gov/cr/crd-01-2022>




 **Disability**

Under Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act (ADA) of 1990, a “person with a disability” means any person who:

- ▶ Has a **physical or mental impairment** which **substantially limits** one or more **major life activities**
- ▶ Has a record of such an impairment, or is regarded as having such an impairment







USDA's Expanded Definition

- ▶ Traditionally Recognized Disability Categories:
 - ▶ Seeing, Hearing, Walking, Speaking, Learning, Reading, Eating, Breathing


+

- ▶ Major Bodily Activities:
 - ▶ Digestive, Immune, Respiratory, Circulatory, Neurological Systems







ADA Amendments Act of 2008



- ▶ Expanded and clarified the definition of Disability
- ▶ Did NOT change the expectation to provide a reasonable modification
- ▶ DID make clear the emphasis must be on providing the reasonable modification and not burdening the disabled person with 'proving' he or she has a disability






Expanded Definition of Disability for CNPs

Revises 'Substantially Limits':

- ▶ Need not prevent or severely prevent a major life activity
- ▶ Individualized Assessment
- ▶ Without regard to current disability status
- ▶ May include disability that is episodic or in remission



 **Types of Disability Discrimination**

- ▶ **Denial** of benefits or services
- ▶ **Delay** in receiving benefits or services
- ▶ **Different** treatment that leads to a disadvantage
- ▶ Ineffective communication
- ▶ Failure to provide reasonable accommodation(s)
- ▶ Inaccessible facilities




 **Requirements for Reasonable Accommodations**


'Reasonable Modification': a change or alteration in policies, practices, and/or procedures to accommodate a disability

- ▶ Duty to negotiate
- ▶ Case-by-case basis
- ▶ Accommodating is primary objective




 **Requirements for Reasonable Accommodations**


- ▶ Handicap accessibility
- ▶ Meal modifications
- ▶ Accommodations/Modifications addressed in 504, Individual Education Plan (IEP)
- ▶ Accommodations need not be exactly as requested
- ▶ Provided free of charge
- ▶ Contact HCNP if further guidance needed



Hawaii Child Nutrition Programs

Procedural Safeguards

- ▶ SFAs required to provide notice and information to parents and guardians regarding how to request a reasonable modification, including the right to:
 - ▶ File a grievance
 - ▶ Receive a prompt response
 - ▶ An impartial hearing
 - ▶ Be represented by counsel
 - ▶ Receive notice of final decision



Hawaii Child Nutrition Programs

Collection and Use of Data

- ▶ Required to obtain data by ethnic and racial category
- ▶ Systems for collecting data may be program specific
- ▶ Annual reporting on ethnic and racial data
- ▶ Civil Rights Ethnic Data Report, Form 0-4c
 - ▶ <https://hcnp.hawaii.gov/wp-content/uploads/2022/07/7.1.16-O-4C-Ethnic-Data-Report-rev.doc>

Hawaii Child Nutrition Programs

CIVIL RIGHTS ETHNIC DATA REPORT FORM 0-4c

Instructions: Each School Food Authority (SFA) must complete this Internal Ethnic Data Report form annually by October 31 and maintain on file. The assessment form provides an overview of civil rights requirements in accordance with United States Department of Agriculture (USDA) FNS Instruction 113-1. Do not send to Hawaii Child Nutrition Programs. Retain for your files.

School Food Authority Name	Agreement No.	Date: Month/Day/Year
Check the applicable box. Explain all "No" answers on separate sheet.		
1. Program materials include the nondiscrimination statement and procedures for filing a complaint. Statewide explain that any discrimination complaints may be filed directly with the Secretary of Agriculture, USDA.	YES	NO
2. The "Let Justice Be Done" poster is displayed in a prominent place accessible to the students in each school.	<input type="checkbox"/>	<input type="checkbox"/>
3. School/institution provides annual training to school food service employees to ensure compliance with civil rights regulations.	<input type="checkbox"/>	<input type="checkbox"/>
4. School/institution provides bilingual translated material and language assistance, if necessary. See FNS-USDA website: http://www.fns.usda.gov/etd/etd-process.htm	<input type="checkbox"/>	<input type="checkbox"/>
5. School/institution has a procedure to accept and process complaints based upon race, color, national origin, sex, age or disability.	<input type="checkbox"/>	<input type="checkbox"/>
6. Has your school/institution received written or verbal complaints regarding race, color, national origin, sex, age or disability?	<input type="checkbox"/>	<input type="checkbox"/>
a. If yes, how many? _____ Indicate the disposition of each case on a separate sheet.	<input type="checkbox"/>	<input type="checkbox"/>
b. If yes, were the complaints forwarded to USDA or the Hawaii Department of Education?	<input type="checkbox"/>	<input type="checkbox"/>
7. Are students with special dietary needs provided program benefits as prescribed by regulations?	<input type="checkbox"/>	<input type="checkbox"/>
8. Are there free or reduced-price meal applications disproportionately composed of minority applicants?	<input type="checkbox"/>	<input type="checkbox"/>

Using the racial/ethnic information from the approved free and reduced-price meal applications, report the numbers for each ethnic and racial group: total enrollment, number approved for free or reduced-price meals, number denied for free or reduced-price meals. If there are no participants of an ethnic or racial group, place a zero in the column. Include the total numbers for all school sites combined.

SFA Total Enrollment or Residents	ETHNIC GROUP				RACIAL GROUP					Total
	Hispanic or Latin	Not Hispanic or Latin	Asian	Native	American Indian or Alaska Native	Native Hawaiian or Other Pacific Islander	Black or African American	White		
Total # Students Approved for Free or Reduced-Price Meals										
# Denied										

Printed Name of School Official _____ Date Signed _____
Signature of Official _____

This institution is an equal opportunity provider. Rec 7/2016


Hawaii Child Nutrition Programs

Collection and Use of Data: Ethnic Group

Using the racial/ethnic information from the approved free and reduced-price meal applications, report the numbers for each ethnic and racial group: total enrollment, number approved for free or reduced-price meals, number denied for free or reduced-price meals. If there are no participants of an ethnic or racial group, place a zero in the column. Include the total numbers for all school sites combined.

SFA Total Enrollment or Residents	ETHNIC GROUP			RACIAL GROUP					
	Hispanic or Latino	Not Hispanic or Latino	Total	Asian	White	American Indian or Alaska Native	Native Hawaiian or Other Pacific Islander	Black or African American	Total
Total # Students Approved for Free or Reduced-Price Meals									
# Denied									

- ▶ **Hispanic or Latino**
 - ▶ A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin - regardless of race
- ▶ **Not Hispanic or Latino**




Hawaii Child Nutrition Programs

Collection and Use of Data: Racial Group

Using the racial/ethnic information from the approved free and reduced-price meal applications, report the numbers for each ethnic and racial group: total enrollment, number approved for free or reduced-price meals, number denied for free or reduced-price meals. If there are no participants of an ethnic or racial group, place a zero in the column. Include the total numbers for all school sites combined.

SFA Total Enrollment or Residents	ETHNIC GROUP			RACIAL GROUP					
	Hispanic or Latino	Not Hispanic or Latino	Total	Asian	White	American Indian or Alaska Native	Native Hawaiian or Other Pacific Islander	Black or African American	Total
Total # Students Approved for Free or Reduced-Price Meals									
# Denied									

- ▶ **Black or African American** - a person having origins in any of the black racial groups of Africa
- ▶ **White** - a person having origins in any of the original peoples of Europe, the Middle East, or North America
- ▶ **Asian** - a person having origins in any of the peoples of the Far East, Southeast Asia, or the Indian Subcontinent




Hawaii Child Nutrition Programs

Collection and Use of Data: Racial Group

Using the racial/ethnic information from the approved free and reduced-price meal applications, report the numbers for each ethnic and racial group: total enrollment, number approved for free or reduced-price meals, number denied for free or reduced-price meals. If there are no participants of an ethnic or racial group, place a zero in the column. Include the total numbers for all school sites combined.

SFA Total Enrollment or Residents	ETHNIC GROUP			RACIAL GROUP					
	Hispanic or Latino	Not Hispanic or Latino	Total	Asian	White	American Indian or Alaska Native	Native Hawaiian or Other Pacific Islander	Black or African American	Total
Total # Students Approved for Free or Reduced-Price Meals									
# Denied									

- ▶ **Native Hawaiian or Other Pacific Islander** - A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands
- ▶ **American Indian or Alaskan Native** - A person having origins in any of the original peoples of North America (including Central America) who maintains tribal affiliation or community attachment



Hawaii Child Nutrition Programs

CIVIL RIGHTS ETHNIC DATA REPORT FORM O-4c

Instructions: Each School Food Authority (SFA) must complete this Internal Ethnic Data Report by annually by October 31 maintain on file. This assessment form provides an overview of civil rights requirements in accordance with United States Department of Education (USDOE) FNS Instruction 115-1. Do not send to Hawaii Child Nutrition Programs. Maintain for your files.

School Food Authority Name: _____ Agreement No. _____ Date: Month/Day/Year _____

Check the applicable box. Explain all "No" answers on separate sheet.

	YES	NO
1. Program materials include the nondiscrimination statement and procedures for filing a complaint. Materials explain that any discrimination complaints may be filed directly with the Secretary of Agriculture, USDA.	<input type="checkbox"/>	<input type="checkbox"/>
2. The "Food Justice for All" nondiscrimination poster is displayed in a prominent place accessible to the students in each school.	<input type="checkbox"/>	<input type="checkbox"/>
3. School/institution provides annual training to school food service employees to ensure compliance with civil rights regulations.	<input type="checkbox"/>	<input type="checkbox"/>
4. School/institution provides bilingual translated material and language assistance, if necessary. See FNS-USDA website: http://www.fns.usda.gov/civilrights process. Other languages were used?	<input type="checkbox"/>	<input type="checkbox"/>
5. School/institution has a procedure to accept and process complaints based upon race, color, national origin, sex, age or disability?	<input type="checkbox"/>	<input type="checkbox"/>
6. If yes, how many? _____ Indicate the disposition of each case on a separate sheet.	<input type="checkbox"/>	<input type="checkbox"/>
7. If yes, were the complaints forwarded to USDA or the Hawaii Department of Education?	<input type="checkbox"/>	<input type="checkbox"/>
8. Are students with special dietary needs provided program benefits as prescribed by regulations?	<input type="checkbox"/>	<input type="checkbox"/>
9. Are denied free or reduced-price meal applications disproportionately composed of minority applicants?	<input type="checkbox"/>	<input type="checkbox"/>

Using the available information from the approved free and reduced-price meal applications, report the numbers for each ethnic and racial group. Total enrollment, number approved for free or reduced-price meals, number denied for free or reduced-price meals. If there are no participants of an ethnic or racial group, place a zero in the column. Include the total numbers for all ethnic data combined.

SFA Total Enrollment or Residents	ETHNIC GROUP				RACIAL GROUP			
	Hispanic or Latino	Native Hawaiian or Other Pacific Islander	Asian	White	American Indian or Alaska Native	Native Hawaiian or Other Pacific Islander	Black or African American	Total
Total # Students Approved for Free or Reduced-Price Meals								
# Denied								

Printed Name of School Official: _____ Date Signed: _____


Signature of Official: _____

This institution is an equal opportunity provider. Rev 7/2016

Hawaii Child Nutrition Programs

Public Notification Systems


- ▶ Program availability and participants rights
- ▶ Complaint information and how to file a complaint
- ▶ Non-discrimination Statement



Hawaii Child Nutrition Programs

Public Notification Systems: Methods

- ▶ Provide information in alternative formats
- ▶ Convey an equal opportunity message in all media
- ▶ Include non-discrimination statement on all public materials



Hawaii Child Nutrition Programs

Long Statement

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-DAS-CR-Complaint-Form-2008-2009-2016-11-28-11722141.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by mail:

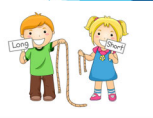
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or
fax:
(833) 256-1665 or (202) 690-7442; or
email:
program.intake@usda.gov
This institution is an equal opportunity provider.

Hawaii Child Nutrition Programs

Short Statement

This institution is an equal opportunity provider.

- ▶ Use other languages as needed
- ▶ Font size cannot be smaller than the text used in the program material
- ▶ Small items such as pens, buttons, etc. are exempt due to size




Hawaii Child Nutrition Programs

Nondiscrimination Statement

Where must it be?

- ▶ Application Form(s)
- ▶ Notification of Eligibility
- ▶ Notice of Adverse Action Form
- ▶ Program Web Page (home page)
- ▶ Public Information, including program literature
 - ▶ e.g. breakfast outreach
- ▶ When in doubt, include the nondiscrimination statement



Hawaii Child Nutrition Programs

Complaint Procedure

- ▶ Right to File
 - ▶ Any person alleging discrimination based on a protected class has right to file a complaint within **180 days** of the alleged action
- ▶ Acceptance
 - ▶ All complaints must be forwarded to the State Agency within **FIVE (5) DAYS**
- ▶ Verbal
 - ▶ If verbal complaint received, person to whom allegations are made must write complaint, making attempt to collect specific information

HCNP Discrimination Complaint Form (Template):
<https://hcnp.hawaii.gov/civil-rights-2/>
 Under 'Forms with Translations' section

Hawaii Child Nutrition Programs

Sponsor Complaint Procedure, Log, & Form

- ▶ Sponsors must have a Civil Rights binder or file with required documents:
 - ▶ Written Civil Rights Complaint Procedure
 - ▶ Annually dated Civil Rights Complaint Log
 - ▶ Copies of Civil Rights Complaint Forms
- ▶ Template Civil Rights forms are available on HCNP's website:
<https://hcnp.hawaii.gov/overview/nslp/> Under 'Civil Rights' section

Hawaii Child Nutrition Programs

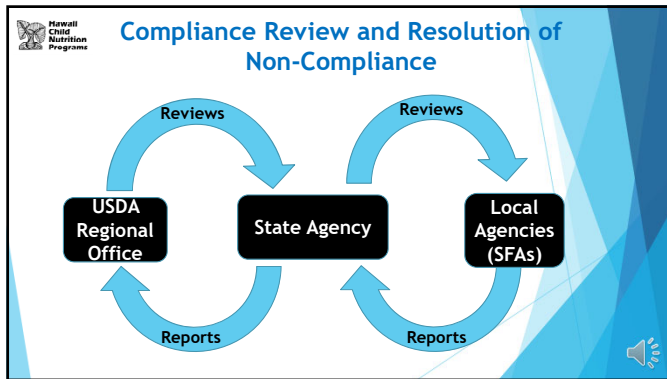
Sample Complaint Log

SPONSOR : CIVIL RIGHTS COMPLAINT LOG

Sponsor Name: Aloha Academy SY: 2023-2024

Date complaint received	Name of person who took complaint	Name and address of complainant	Explanation of event - include date of incident (use additional sheets if needed)	Type of Discrimination (circle one)	Date HCNP notified	Date instructions or other information rec'd from HCNP	Date(s) investigation took place	Who investigated?	Date complaint resolved
				Race/Color National Origin Sex Age Disability					
				Racial Origin Sex Age Disability					
				Race/Color National Origin Sex Age Disability					

No Complaints, 5/31/24



Conflict Resolution

- ▶ All complaints alleging discrimination on basis of one or more protected class - Race, Age, Color, National Origin, Sex (including gender identity and sexual orientation), or Disability:
 - ▶ Forwarded to State Agency within 5 days
 - ▶ Processed by USDA within 90 days
 - ▶ Complainant has right to file within 180 days of alleged incident(s)

Requirements for Language Assistance for Limited English Proficiency (LEP) individuals

- ▶ LEP - Limited ability to read, speak, write or understand English
- ▶ Meaningful Access to Language Services:
 - ▶ Reasonable
 - ▶ Timely
 - ▶ Appropriate
 - ▶ Competent
- ▶ Free of Charge

Hawaii Child Nutrition Programs

Language Access Services

- ▶ Helping Hands Hawaii, Bilingual Access Line:
<http://helpinghandshawaii.org/programs/bilingual-access-line/>
- ▶ Language Services of Hawaii:
<https://languageserviceshawaii.com/>
- ▶ Pacific Gateway Center, Hawaii Language Bank:
<https://www.pacificgatewaycenter.org/hawaii-language-bank>
- ▶ Hawaii State Judiciary list of interpreters:
https://www.courts.state.hi.us/services/court_interpreting/list_of_registered_interpreters
- ▶ Interpreting Hawaii (American Sign Language Interpreting):
<https://www.interpretinghawaii.com/>



Hawaii Child Nutrition Programs

Free Language Interpretation Services Waiver template

Waiver Form Template

Available on HCNP's website:
<https://hcnp.hawaii.gov/wp-content/uploads/2022/03/Free-Language-Interpretation-Services-Waiver-form-template-for-SFAs-Sponsors.pdf>

Free Language Interpretation Services Waiver form

I acknowledge the free written and telephonic interpretation services were offered to me by the SFA/Sponsor Name. I decline the free interpretation services offered and will use an interpreter of my choice to provide language interpretation. I understand I may not use school aged child(ren) to provide the language interpretation service for me.

Reason(s) for language interpretation services. Check the box(es) below:

☐ Free and Reduced-price meal application

☐ Meal accommodation

☐ Other (please explain) _____

Date

Print Name

Signature

Hawaii Child Nutrition Programs

SFA Checklist

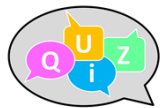
- ▶ Annual Civil Rights training for all staff and volunteers
▶ DOCUMENT TRAINING
- ▶ Display current 'And Justice for All' poster
- ▶ Collect and record race and ethnic data annually
- ▶ Provide free language assistance services to LEP participants
- ▶ Offer meals to all without discrimination



SFA Checklist (continued)

- ▶ Maintain Civil Rights Complaint Binder, Log, forms
- ▶ Include non-discrimination statement on all printed materials related to school nutrition programs
- ▶ Keep all records for 3 years plus the current year (or longer, depending on your SFA's policy)





Civil Rights Quiz

Link to google Forms Quiz.

<https://forms.gle/rzzhqwcasVwWZiMV6>






QUESTIONS?



Rachel Itano rachel.itano@k12.hi.us
Kasey Kawamoto kasey.kawamoto@k12.hi.us

(808) 587-3600





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mail:
U.S. Department of Agriculture
Office of the Assistant Secretary for Civil Rights
1400 Independence Avenue, SW
Washington, D.C. 20250-9410; or

fax:
(833) 256-1665 or (202) 690-7442; or

email:
program_intake@usda.gov

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